JS 44C/SDNY
REV. 5/2010

JUDGE CASTEL

CIVIL COVER SHEET

10 CIV 5732

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

JUL 29 2010

PLAINTIFFS	DEFENDANTS
Janelle Denalli, Gloria Fields, Jasmine Felipe, Esmirna Munoz, Caroline D. Espinal and Sabrina S. Martinez, individually, on behalf of themselves and all others similarly	SCE Group Inc. d/b/a Sin City, Gus Drakopoulos and Kevin Wells and Danny Cotton
ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER	ATTORNEYS (IF KNOWN)
Lipman & Plesur, LLP (516) 931-0050 500 North Broadway, Suite 105, Jericho, NY 11753	

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

29 U.S.C. §§ 201 et seq. Wage-hour Violations and Sexual Harassment

Has this or a similar case been previously filed in SDNY at any time? No? [✓] Yes? [ ] Judge Previously Assigned

If yes, was this case Vol. [ ] Invol. [ ] Dismissed. No [ ] Yes [ ] If yes, give date ________________ & Case No. ____________

(PLACE AN [x] IN ONE BOX ONLY) NATURE OF SUIT

ACTIONS UNDER STATUTES

TORTS

CONTRACT

[ ] 110 INSURANCE
[ ] 120 MARINE
[ ] 130 MILLER ACT
[ ] 140 NEGOTIABLE INSTRUMENT
[ ] 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
[ ] 151 MEDICARE ACT
[ ] 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)
[ ] 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS
[ ] 160 STOCKHOLDERS SUITS
[ ] 190 OTHER CONTRACT
[ ] 195 CONTRACT PRODUCT LIABILITY
[ ] 196 FRANCHISE

REAL PROPERTY

[ ] 210 LAND CONDEMNATION
[ ] 220 FORECLOSURE
[ ] 230 RENT LEASE & EJECTMENT
[ ] 240 TORTS TO LAND
[ ] 245 TORT PRODUCT LIABILITY
[ ] 290 ALL OTHER REAL PROPERTY

PERSONAL INJURY

[ ] 310 AIRPLANE
[ ] 315 AIRPLANE PRODUCT LIABILITY
[ ] 320 ASSAULT, LIBEL & SLANDER
[ ] 330 FEDERAL EMPLOYERS' LIABILITY
[ ] 340 MARINE
[ ] 345 MARINE PRODUCT LIABILITY
[ ] 350 MOTOR VEHICLE
[ ] 355 MOTOR VEHICLE PRODUCT LIABILITY
[ ] 360 OTHER PERSONAL INJURY

ACTIONS UNDER STATUTES

CIVIL RIGHTS

[ ] 441 VOTING
[ ] 442 EMPLOYMENT
[ ] 443 HOUSING/ ACCOMMODATIONS
[ ] 444 WELFARE
[ ] 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
[ ] 446 AMERICANS WITH DISABILITIES -OTHER
[ ] 440 OTHER CIVIL RIGHTS

PERSONAL INJURY

[ ] 362 PERSONAL INJURY - MED MALPRACTICE
[ ] 365 PERSONAL INJURY PRODUCT LIABILITY
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PERSONAL PROPERTY

[ ] 370 OTHER FRAUD
[ ] 371 TRUTH IN LENDING
[ ] 380 OTHER PERSONAL PROPERTY DAMAGE
[ ] 385 PROPERTY DAMAGE PRODUCT LIABILITY

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[ ] 510 MOTIONS TO VACATE SENTENCE 20 USC 2255
[ ] 530 HABEAS CORPUS
[ ] 535 DEATH PENALTY
[ ] 540 MANDAMUS & OTHER
[ ] 550 CIVIL RIGHTS
[ ] 555 PRISON CONDITION

FORFEITURE/PENALTY

[ ] 610 AGRICULTURE
[ ] 620 OTHER FOOD & DRUG
[ ] 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
[ ] 630 LIQUOR LAWS
[ ] 640 RR & TRUCK
[ ] 650 AIRLINE REGS
[ ] 660 OCCUPATIONAL SAFETY/HEALTH
[ ] 690 OTHER

LABOR

[X] 710 FAIR LABOR STANDARDS ACT
[ ] 720 LABOR/MGMT RELATIONS
[ ] 730 LABOR/MGMT REPORTING & DISCLOSURE ACT
[ ] 740 RAILWAY LABOR ACT
[ ] 790 OTHER LABOR LITIGATION
[ ] 791 EMPL RET INC SECURITY ACT

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[ ] 462 NATURALIZATION APPLICATION
[ ] 463 HABEAS CORPUS-ALIEN DETAINEE
[ ] 465 OTHER IMMIGRATION ACTIONS

BANKRUPTCY

[ ] 422 APPEAL 28 USC 158
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[ ] 820 COPYRIGHTS
[ ] 830 PATENT
[ ] 840 TRADEMARK

SOCIAL SECURITY

[ ] 861 HIA (1395ff)
[ ] 862 BLACK LUNG (923)
[ ] 863 DIWC/DIWW (405(g))
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[ ] 870 TAXES (U.S. Plaintiff or Defendant)
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[ ] 430 BANKS & BANKING
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[ ] 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
[ ] 480 CONSUMER CREDIT
[ ] 490 CABLE/SATELLITE TV
[ ] 810 SELECTIVE SERVICE
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[ ] 893 ENVIRONMENTAL MATTERS
[ ] 894 ENERGY ALLOCATION ACT
[ ] 895 FREEDOM OF INFORMATION ACT
[ ] 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
[ ] 950 CONSTITUTIONALITY OF STATE STATUTES

910647

Check if demanded in complaint:

[X] CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND $ Unknown OTHER ____________ JUDGE ____________________ DOCKET NUMBER ____________

Check YES only if demanded in complaint
JURY DEMAND: [✓] YES [ ] NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

☑ 1 Original Proceeding
☐ 2a. Removed from State Court
☐ 2b. Removed from State Court AND at least one party is pro se.
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from (Specify District)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judge Judgment

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☑ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☐ 4 DIVERSITY

IF DIVERSITY, INDICATE CITIZENSHIP BELOW. (28 USC 1322, 1441)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
CITIZEN OF THIS STATE	[ ] 1	[ ] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[ ] 3	[ ] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[ ] 5	[ ] 5
CITIZEN OF ANOTHER STATE	[ ] 2	[ ] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[ ] 4	[ ] 4	FOREIGN NATION	[ ] 6	[ ] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Janelle Denalli, 46 Circle Drive West, Elmont, NY 11003 (Nassau)
Gloria Fields, 131-39 244th Street, Rosedale, NY 11422 (Queens)
Jasmine Felipe, 300 East 158th Street, Apt 16H, Bronx, NY 10451, (Bronx)
Esmirna Munoz, 2495 Cambreleng Avenue., Apt. #2, Bronx, NY 10458 (Bronx)
Caroline D. Espinal, 2175 Lacombe Ave, 10H, Bronx, NY 10473 (Bronx)
Sabrina S. Martinez, 1150 St. Lawrence Avenue, Apt. #1A, Bronx, NY 10472 (Bronx)

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

SCE Group Inc., 2520 Park Avenue, Bronx, New York 10451 (Bronx)
Gus Drakopoulos, 2520 Park Avenue, Bronx, New York 10451 (Bronx)
Kevin Wells, 2520 Park Avenue, Bronx, New York 10451 (Bronx)
Danny Cotton, 2520 Park Avenue, Bronx, New York 10451 (Bronx)

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☑ MANHATTAN
(DO NOT check either box if this a PRISONER PETITION.)

DATE 7/27/2010 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT
[ ] NO
[x] YES (DATE ADMITTED Mo. 12 Yr. 1987)
Attorney Bar Code #

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court. K. FOX

Magistrate Judge ______________________________ is so Designated.

Ruby J. Krajick, Clerk of Court by ____________ Deputy Clerk, DATED ________________.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---X

JUDGE CASTEL

JANELLE DENALLI, GLORIA FIELDS, JASMINE FELIPE, ESMIRNA MUNOZ, CAROLINE D. ESPINAL and SABRINA S. MARTINEZ, Individually, On Behalf of All Others Similarly Situated and as Class Representatives,

Plaintiffs,

COMPLAINT

10 CIV. 5732

-against-

PLAINTIFFS DEMAND A TRIAL BY JURY

SCE GROUP INC. D/B/A SIN CITY, GUS DRAKOPOULOS, KEVIN WELLS and DANNY COTTON,

ECF CASE

Defendants.

---X

Plaintiffs Janelle Denalli, Gloria Fields, Jasmine Felipe, Esmirna Munoz, Caroline D. Espinal and Sabrina S. Martinez, individually, on behalf of themselves and all others similarly situated and as Class Representatives by their attorneys, Lipman & Plesur, LLP, complain of Defendants SCE Group Inc. d/b/a Sin City, Gus Drakopoulos, Kevin Wells and Danny Cotton ("SCE" or "defendants"), as follows:

PRELIMINARY STATEMENT

1. Plaintiffs complain on behalf of themselves, and other current and former employees of defendants, who are employed by defendants as cocktail waitresses, dancers, bartenders and possibly other titles or in a similarly situated capacity who may elect to opt-in to this action pursuant to the Fair Labor Standards Act, 29 U.S.C.A. § 216(b) ("FLSA"), that they are owed: (i) minimum wages, (ii) overtime premium pay and (ii) liquidated damages pursuant to the FLSA.

2. Plaintiffs further complain pursuant to Fed. R. Civ. Proc. 23 on behalf of

themselves, and a putative class of other similarly situated current and former employees of defendants who worked as cocktail waitresses, dancers, bartender and possibly in other titles, that they are owed additional wages and amounts from defendants for failure to pay minimum wages, overtime premium pay, spread of hours pay and for unlawful deductions from wages under the New York State Minimum Wage Order for the Restaurant Industry, N.Y. Comp. Codes R. & Regs., Part 137, Title 12, § 137, the New York Minimum Wage Act, New York Labor Law §§ 650 *et seq*., and the New York Labor Law §§ 190 *et seq*. (hereinafter collectively referred to as the "NYLL").

3. Plaintiffs further complain pursuant to Fed. R. Civ. Proc. 23 on behalf of themselves, and a putative class of other similarly situated current and former employees of defendants who worked as cocktail waitresses and possibly in other titles, that they were sexually harassed, otherwise treated differently with respect to the terms, conditions and privileges of employment and subjected to a pattern and practice of such unlawful discrimination because of their gender in violation of the New York Human Rights Law, N.Y. Exec. Law § 290 *et seq*. (hereinafter referred to as the "NYSHRL") and the New York City Human Rights Law, N.Y.C. Admin. Code § 8-101 *et seq*. (hereinafter referred to as the "NYCHRL").

JURISDICTION AND VENUE

4. Plaintiffs invoke the jurisdiction of this Court pursuant to the Fair Labor Standards Act, 29 U.S.C. § 216, and the supplemental jurisdiction statute, 28 U.S.C. § 1367, in that the state and federal claims arise from a common nucleus of operative facts such that they are so related that they form part of the same case or controversy under Article III of the United States Constitution.

5. The venue of this action is proper because the events or omissions giving rise to the claims occurred within, and defendants conduct business within, the Southern District of New York.

PARTIES

6. Plaintiffs and their similarly situated co-workers were employed by defendants as Cocktail Waitresses and possibly in other titles at an adult entertainment club in the Bronx called Sin City (hereinafter the "Sin City Club").

7. Plaintiff Janelle Denalli ("Plaintiff Denalli") is an adult individual residing in Nassau County, New York. Plaintiff Denalli was employed by defendants as a Cocktail Waitress from in or about November 2009 to on or about May 28, 2010.

8. Plaintiff Gloria Fields ("Plaintiff Fields") is an adult individual residing in Queens County, New York. Plaintiff Fields was employed by defendants as a Cocktail Waitress from in or about January 2008 to in or about May 2010.

9. Plaintiff Jasmine Felipe ("Plaintiff Felipe") is an adult individual residing in Bronx County, New York. Plaintiff Felipe has been employed by defendants as a Cocktail Waitress from in or about July 2006 to in or about December 2009.

10. Plaintiff Esmirna Munoz ("Plaintiff Munoz") is an adult individual residing in Bronx County, New York. Plaintiff Munoz has been employed by defendants as a Cocktail Waitress from in or about August 2009 to in or about February 2010.

11. Plaintiff Caroline D. Espinal ("Plaintiff Espinal") is an adult individual residing in Bronx County, New York. Plaintiff Espinal has been employed by defendants as a Cocktail Waitress from in or about June 2009 to on or about May 28, 2010.

12. Plaintiff Sabrina S. Martinez ("Plaintiff Martinez") is an adult individual residing in Bronx County, New York. Plaintiff Martinez has been employed by defendants as a Cocktail Waitress from in or about June 2008 to on or about May 1, 2010.

13. At all times relevant, defendants were employers and covered by the FLSA, NYLL, NYSHRL and the NYCHRL.

14. Defendant SCE Group Inc. ("Defendant SCE") is headquartered at 2520 Park Avenue, Bronx, New York and, *inter alia*, operates the Sin City Club.

15. Upon information and belief, Defendant Gus Drakopoulos ("Defendant Drakopoulos") serves as an owner and officer of Defendant SCE. Defendant Drakopoulos is sued individually and in his capacity as an owner, officer, joint employer and/or agent of Defendant SCE and resides in New York.

16. Upon information and belief, Defendant Drakopoulos was and is the principal, agent, partner, joint venturer, controlling shareholder of Defendant SCE, and/or was engaged with the other defendants in a joint enterprise for profit, and bore such other relationships to the other defendants so as to be liable for their conduct.

17. Upon information and belief, Defendant Drakopoulos manages the day-to-day operations, controls hiring and firing, determines the hours of operation, employee schedules and is an employer pursuant to the FLSA, NYLL, NYSHRL and the NYCHRL.

18. Upon information and belief, Defendant Drakopoulos had responsibility for defendants' wage-hour policies and practices, including, but not limited to, time-keeping and payroll policies, policies governing the allocations of tips/and or gratuities, and the policies set forth in the employee guidelines that applied to employees at the Sin City Club.

19. Upon information and belief, Defendant Kevin Wells ("Defendant Wells") is employed by Defendant SCE as a Manager.

20. Upon information and belief, Defendant Wells manages the day-to-day operations, controls hiring and firing, determines the employee schedules and is an employer or agent of the employer pursuant to the FLSA, NYLL, NYSHRL and the NYCHRL.

21. Upon information and belief, Defendant Danny Cotton ("Defendant Cotton") is employed by Defendant SCE as a Manager.

22. Upon information and belief, Defendant Cotton manages the day-to-day operations, controls hiring and firing, determines the employee schedules and is an employer or agent of the employer pursuant to the FLSA, NYLL, NYSHRL and the NYCHRL.

23. At all relevant times, defendants affected commerce within the meaning of 29 U.S.C. § 203(b).

24. Upon information and belief, Defendant SCE is a domestic corporation organized and existing under the laws of the State of New York.

25. At all relevant times, one or more defendants employed and/or jointly employed plaintiffs.

26. The gross annual volume of sales made or business done by Defendant SCE, for each year of the past three years, was not less than $500,000.00.

27. Defendants have maintained a common policy and practice of, *inter alia*: (1) not paying for all hours worked, (2) not paying minimum wage, (3) not paying overtime premium pay for work in excess of forty (40) hours a week, (3) taking a portion of the earned tips; (4) making improper deductions from wages, (5) not making the required spread of hours

wage payments, (6) not reimbursing for uniform expenses; and, (6) engaging in verbal and physical sexual harassment.

28. The named plaintiffs bring this action on behalf of themselves and all others similarly situated.

CLASS ALLEGATIONS

29. Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure 23 to remedy violations of the New York Labor Law ("NYLL") Article 6 §§ 190 *et seq*. and Article 19 §§ 650 *et seq*, and supporting New York State Department of Labor regulations as well as the NYSHRL and the NYCHRL. Plaintiffs sue on their behalf and on behalf of a class of persons pursuant to Fed. R. Civ. Proc. 23.

30. The plaintiffs bring this case for a putative class that worked, in violation of the NYLL for the six years preceding the filing of this action and for the past three years under the NYSHRL and NYCHRL (the "class periods").

31. Upon information and belief, the unlawful wage related practices and policies are ongoing.

32. The employees in the Class identified above are so numerous that joinder of all members is impracticable. Although the precise number of such employees is unknown, and facts on which calculation of that number are presently within the sole control of defendants, upon information and belief, there were well over forty (40) members of the Class during the class period.

33. There are questions of law and fact common to the Class which predominate over questions affecting only individual members of the Class, including:

a. whether defendants failed to compensate plaintiffs for all hours worked within the meaning of the NYLL;

b. whether defendants failed to compensate plaintiffs the minimum wage for all hours worked;

c. whether defendants improperly made deductions from plaintiffs' wages;

d. whether defendants failed to pay plaintiffs their earned gratuities and/or unlawfully misdirected a portion of the gratuities to management;

e. whether defendants failed to pay plaintiffs and their similarly situated co-workers their "spread of hours" pay;

f. whether defendants failed to reimburse plaintiffs for uniforms and related expenses; and,

g. whether defendants subjected plaintiffs to a pattern and practice of sexual harassment other unlawful terms and conditions of employment in violation of the NYSHRL and the NYCHRL.

FACTUAL ALLEGATIONS

34. Plaintiffs were employed as Cocktail Waitresses, and possibly worked in other titles, serving food and drink in the Sin City Club.

35. Plaintiffs were required to purchase uniforms from defendants and were not reimbursed for their cost or the maintenance of these uniforms.

36. Plaintiffs were paid below both state and federal minimum wage.

37. Upon information and belief, at the time of hire, plaintiffs were informed that they would be paid a shift rate plus earned gratuities/tips. However, defendants frequently failed to pay plaintiffs any or all of the shift pay.

38. The defendants, at times, confiscated a portion of the tips earned by plaintiffs.

39. Upon information and belief, at times, plaintiffs were required to work more than ten (10) hours per day and were not paid any "spread of hours" pay.

40. Plaintiffs, at times, were required to share a portion of the tips earned with defendants.

41. Plaintiffs' wages were subject to many deductions by defendants. Frequently, a manager would approach an employee, accuse the employee of some infraction of the work rules and demand an immediate, cash payment.

42. Some of the purported reasons for these deductions, include, but are not limited to, *inter alia*, the following: checking a cell phone, having two or more women waiting by the entrance, making a personal call at work, failing to carry a pen, refusing to go to Yankee Stadium to do promotional work, taking a cigarette break, not wearing hair down, wearing incorrect heel size, not wearing facial make-up to defendants' satisfaction, not wearing high heels when you are required to clean the club, chewing gum, eating food after 11:00 p.m. and leaving a shift early due to illness.

43. Dancers and bartenders were also subject to these improper deductions from wages.

44. Plaintiffs were required to start their shifts with a specified amount of cash

(hereafter the "bank"). Upon information and belief, at times, defendants' deductions from wages were greater than plaintiffs' earnings or bank.

45. Plaintiffs were required to tip-out bussers and bartenders even if their earned tips were not sufficient to cover the required tip-out.

46. Plaintiffs were not informed about any tip credit or the minimum wage.

47. Upon information and belief, various employees complained about defendants' pay policies and the deductions from wages and defendants ignored these complaints.

48. Upon information and belief, plaintiffs, at times, worked in excess of forty (40) hours in the workweek and were not paid overtime premium pay for such work.

49. Plaintiffs were subject to improper sexual harassment from defendants including, improper touching and verbal comments. Defendants maintained a sexually hostile workplace where unwelcome acts of a sexual nature were not only condoned, but encouraged.

50. Plaintiffs, at times, were subjected to improper, touching by Defendants Wells and Cotton that included, *inter alia*, slapping, grabbing or poking of buttocks, chest and private body parts.

51. Plaintiffs, at times, were subjected to offensive and improper sexually harassing comments and conduct from Defendants Drakopoulos, Wells and Cotton, and, at times, defendants requested sexual favors.

52. Those plaintiffs who refused to engage in sex acts or tolerate the verbal and physical sexual harassment from defendants, were not treated as favorably as those that tolerated this. For employees who tolerated the sexual harassment or engaged in the sexual

conduct, there were perks, such as, such as, *inter alia*, being allowed to wear flats when cleaning, being given the best tables and customers and/or the VIP section more frequently, and, being allowed to arrive late and and/or leave early without forfeiting shift pay.

53. Those who complained about, protested and/or rebuffed the unwanted and offensive sexual conduct and comments were subjected to worse terms and conditions of employment.

54. Frequently, as each of the plaintiffs made clear that the sexual harassment was unwelcome, she was retaliated against by being treated more harshly, including, for example, being subjected to assault and battery, even more hostile verbal abuse and additional wage abuses.

55. Plaintiffs were, at times, touched in a very aggressive and sexual manner by members of management, such that it caused severe physical pain.

Janelle Denalli

56. Defendant Wells subjected Plaintiff Denalli, *inter alia*, to the following:

a. picked up her foot, stuck it in his mouth and started sucking it;

b. touched, in an intimate manner, the inside and outside of her legs;

c. slapped or grabbed her buttocks;

d. pulled on her hair very hard;

e. asked her to sleep at his house;

f. made remarks about having sex with her;

g. made comments about her breasts;

h. try to pull her breasts out of her bra; and,

i. push money down her bustier.

57. Defendant Cotton touched and grabbed at Plaintiff Denalli's breasts.

58. On the last day of plaintiff's employment by Sin City Club, Defendant Wells started yelling at Plaintiff Denalli and telling her she talked back too much. He then put her in the hallway, pushed her to sit in a chair and grabbed her face very hard. Ms. Denalli told him he was hurting her and he refused to stop, then, he told her to leave the club and go home.

59. Subsequent to her discharge, Plaintiff Denalli was denied her bottle check (the monthly incentive pay based on a percent of sales of liquor bottles sold) in retaliation.

Gloria Fields

60. Plaintiff Fields is an African-American female.

61. Defendant Wells subjected Plaintiff Fields, *inter alia*, to the following:

a. pulling down her shorts or top; place his hands on her body saying things like, "let's go back to the champagne room";

b. stroke her breasts;

c. poke his fingers into her buttocks; and,

d. touch body parts such that plaintiff Fields urinated on herself in the presence of others causing her severe humiliation.

62. Defendant Drakopoulos used the word "nigger" when speaking in the presence of Plaintiff Fields and would say things like "you are very attractive for a Black girl."

Jasmine Felipe

63. Plaintiff Felipe is a Hispanic female.

64. Defendant Drakopoulos made it clear to Plaintiff Felipe that he wanted her

to perform sexual favors for him. For example, after mention of a pretty scarf, he stated to Plaintiff Felipe, "you want it; you have to suck my dick."

65. Defendant Drakopoulos made racially offensive comments, *inter alia*, like "you talk like you are from the projects" and "you present yourself real ghetto."

66. Defendant Wells, subjected Plaintiff Felipe to offensive sexual harassment, *inter alia*, including comments about her weight and he made frequent attempts to gain sexual favors from her.

67. In or about September 2009, Defendants refused to allow Plaintiff Felipe to leave the club. Subsequently, on account of this and all of the harassment and improper conduct and comments, Plaintiff Felipe felt compelled to resign and thereby was subjected to a constructive discharge.

Esmirna Munoz

68. Defendant Wells subjected Plaintiff Munoz to offensive sexual harassment, including, *inter alia*, referring to Plaintiff Munoz's vagina as a "double cheeseburger" and squeezed it really hard on numerous occasions causing physical pain.

69. On one occasion, Plaintiff Munoz was experiencing severe stomach pain while working at Sin City Club due to a kidney infection and was denied permission to leave work early. After several requests to Defendant Cotton, she was called an "ignorant, fat bitch" and told to take two weeks off to lose weight and to leave the Sin City Club immediately.

70. Due to all of the harassment and not feeling safe at work, Plaintiff Munoz felt compelled to resign and thereby was subjected to a constructive termination.

Caroline Espinal

71. Plaintiff Espinal was subjected to offensive sexual harassment, *inter alia*, including:

a. Defendant Drakopoulos requested sexual favors;

b. Defendant Wells would frequently touch her in an improper way without permission and continue even after she told him to stop. For example, he frequently grabbed her buttocks; and,

c. Defendant Cotton would make sexual advances and say things like, "you don't know what I want to do with you" or "let's have a drink and then we'll make out after" in the presence of customers and others.

72. Due to all of the harassment and the unsafe conditions at work, Plaintiff Espinal felt compelled to resign and thereby was constructively terminated.

73. Subsequent to the constructive discharge, defendants denied Plaintiff Espinal several checks in retaliation.

Sabrina S. Martinez

74. Plaintiff Martinez was subjected to offensive sexual harassment, *inter alia*, including:

a. Defendant Wells berated Plaintiff Martinez frequently for allegedly being too "fat" and would tell her "if you keep on gaining weight, we are going to fire you," and,

b. Defendant Wells would touch her body parts, without her permission, grabbing her breasts and buttocks.

75. After Plaintiff Martinez had a knee injury, Defendant Drakopoulos would not allow her to wear "flat shoes" or any other reasonable accommodation, and thus denied Plaintiff Martinez a reasonable accommodation.

76. Due to all of the harassment and not feeling safe at work, Plaintiff Martinez felt compelled to resign and thereby was subjected to a constructive termination.

AND FOR A FIRST CAUSE OF ACTION

Violation of the Minimum Wage Provisions of the FLSA

77. Plaintiffs repeat and reallege each and every allegation made in paragraphs 1 through 76 of this Complaint.

78. At all relevant times, defendants were plaintiffs' employers within the meaning of the FLSA, 29 U.S.C. § 203(d).

79. At all relevant times, defendants were engaged in commerce or in an industry or activity affecting commerce.

80. Defendants constitute an enterprise within the meaning of the FLSA, 29 U.S.C. § 203(r).

81. Defendants' failure to pay plaintiffs at the applicable minimum hourly rate was willful within the meaning of 29 U.S.C. § 255(a).

82. Plaintiffs have been damaged in an amount to be determined at trial.

AS AND FOR A SECOND CAUSE OF ACTION

Violation of the New York Minimum Wage Act

83. Plaintiffs repeat and reallege each and every allegation made in paragraphs

1 through 82 of this Complaint.

84. At all relevant times, defendants were plaintiffs' employers within the meaning of the NYLL §§ 2 and 651.

85. Defendants failed to pay plaintiffs and the putative class members at the applicable minimum hourly rate, in violation of the NYLL.

86. Defendants' failure to pay plaintiffs and the putative class members at the applicable minimum hourly rate was willful within the meaning of the NYLL. Defendants failed to pay plaintiffs in a timely fashion, as required by Article 6 of the NYLL.

87. Plaintiffs have been damaged in an amount to be determined at trial.

AS AND FOR A THIRD CAUSE OF ACTION

Violation of the Overtime Provisions of the FLSA

88. Plaintiffs repeat and reallege each and every allegation made in paragraphs 1 through 87 of this Complaint.

89. Defendants intentionally failed to pay plaintiffs overtime compensation at rates of one and one-half times the regular rate of pay for each hour worked in excess of forty hours in a workweek, in violation of 29 U.S.C. § 207 (a)(1).

90. Defendants' failure to pay plaintiffs overtime compensation was willful within the meaning of 29 U.S.C. § 255(a).

91. Plaintiffs have been damaged in an amount to be determined at trial.

AS AND FOR A FOURTH CAUSE OF ACTION

Violation of the Overtime Provisions of the NYLL

92. Plaintiffs repeat and reallege each and every allegation made in paragraphs

1 through 91 of this Complaint.

93. Defendants failed to pay plaintiffs and the putative class members overtime compensation at rates of one and one-half times the regular rate of pay for each hour worked in excess of forty (40) hours in a workweek, in violation of the NYLL.

94. Plaintiffs and the putative class members have been damaged in an amount to be determined at trial.

AS AND FOR A FIFTH CAUSE OF ACTION

Violation of NYLL Section 193 Claim

95. Plaintiffs repeat and reallege each and every allegation made in paragraphs 1 through 94 of this Complaint.

96. Defendants subjected plaintiffs and the putative class members to unlawful deductions from wages.

97. By deducting wages, defendants violated NYLL §§ 193, 198-b and N.Y.C.R.R. tit. 12, § 137-2.5.

98. Plaintiffs and the putative class members have been damaged in an amount to be determined at trial.

AS AND FOR A SIXTH CAUSE OF ACTION

Violation of NYLL Section 196-d Claim

99. Plaintiffs repeat and reallege each and every allegation made in paragraphs 1 through 98 of this Complaint.

100. Plaintiffs and the putative class members were not allowed to keep their earned gratuities and service charges and such gratuities and service charges were misdirected to

non-service workers in violation of NYLL § 196-d.

101. Plaintiffs and the putative class members have been damaged in an amount to be determined at trial.

AS AND FOR A SEVENTH CAUSE OF ACTION

Spread of Hours

102. Plaintiffs repeat and reallege each and every allegation made in paragraphs 1 through 101 of this Complaint.

103. Defendants failed to pay plaintiffs and the putative class members one additional hour pay at the basic minimum wage rate for each day such plaintiff's spread of hours exceeded ten (10) in violation of NYLL §§ 190 *et seq*. and §§ 650 *et seq*. and the wage order of the New York Commissioner of Labor codified at N.Y. COMP. CODES R. & REGS. tit. 12, §§ 137-1.7 and 137-3.11.

104. Defendants' failure to pay plaintiffs and the putative class members at the applicable spread of hours was willful within the meaning of the NYLL.

105. Plaintiffs have been damaged in an amount to be determined at trial.

AS AND FOR AN EIGHTH CAUSE OF ACTION

Uniforms

106. Plaintiffs repeat and reallege each and every allegation made in paragraphs 1 through 105 of this Complaint.

107. Defendants failed to reimburse plaintiffs and the putative class members for the purchase and upkeep of uniforms.

108. Plaintiffs have been damaged in an amount to be determined at trial.

AS AND FOR A NINTH CAUSE OF ACTION

Violation of the New York State Human Rights Law

109. The plaintiffs repeat and reallege each and every allegation made in paragraphs 1 through 108 of this Complaint.

110. Defendants had a policy, pattern and practice of condoning and encouraging unwelcome acts of a sexual nature and otherwise fostering a sexually hostile work environment.

111. The plaintiffs and the putative class members were forced to work in a sexually hostile work environment and subjected to unlawful discrimination.

112. The sexual remarks and conduct to which the plaintiffs were subjected were both unwelcome and severe or pervasive.

113. Defendants' sexual harassment and sex discrimination of the plaintiffs was in violation of the New York State Human Rights Law, N.Y. Exec. Law § 290 *et seq*.

AS AND FOR A TENTH CAUSE OF ACTION

Violation of the New York City Human Rights Law

114. The plaintiffs repeat and reallege each and every allegation made in paragraphs 1 through 113 of this Complaint.

115. The plaintiffs and the putative class members were forced to work in a sexually hostile work environment and subjected to unlawful discrimination.

116. Defendants' sexual harassment and sex discrimination of the plaintiffs was in violation of the New York City Human Rights Law, N.Y.C. Admin. Code § 8-101 *et seq*.

AS AND FOR AN ELEVENTH CAUSE OF ACTION

Intentional Torts

117. Plaintiffs repeat and reallege each and every allegation made in paragraphs 1 through 116 of this Complaint.

118. Defendants Drakopoulos, Wells and Cotton repeatedly subjected the named plaintiffs to unwelcome and forceful physical contact of a sexual nature.

119. The conduct described above in this Complaint constitutes the torts of assault and battery.

120. Defendants Drakopoulos, Wells and Cotton's intimidating and threatening conduct as well as the physical abuse caused the named plaintiffs to have been unreasonably harmed, and they have incurred damages thereby.

121. Defendants Drakopoulos, Wells and Cotton subjected the named plaintiffs to the torts of assault and battery in violation of New York common law.

AS AND FOR A TWELFTH CAUSE OF ACTION

Retaliation Under the NYSHRL (Named Plaintiffs)

122. Plaintiffs repeat and reallege each and every allegation made in paragraphs 1 through 121 of this Complaint.

123. Plaintiffs were retaliated against in violation of the NYSHRL.

124. Defendants Drakopoulos, Wells and Cotton subjected the named plaintiffs to constructive discharge and/or unlawful termination in retaliation for their rebuffing, protesting and otherwise rejecting unwelcome acts of a sexual nature in violation of the NYSHRL.

AS AND FOR A THIRTEENTH CAUSE OF ACTION

Retaliation Under the NYCHRL (Named Plaintiffs)

125. Plaintiffs repeat and reallege each and every allegation made in paragraphs 1 through 124 of this Complaint.

126. Defendants Drakopoulos, Wells and Cotton subjected the named plaintiffs to constructive discharge and/or unlawful termination in retaliation for their rebuffing, protesting and otherwise rejecting unwelcome acts of a sexual nature in violation of the NYCHRL.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request that this Court enter a judgment:

A. Designating this action as a collective action and authorizing prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated employees, apprising them of the pendency of this action, and permitting them promptly to file consents to be plaintiffs in the FLSA claims in this action;

B. Designating of Plaintiffs as representatives of the Rule 23 Class and counsel of record as Class Counsel;

C. Certifying this action as a class action under Rule 23 of the Federal Rules of Civil Procedure for all putative class members for applicable claims under the NYLL, NYSDHR and NYCHRL;

D. Awarding plaintiffs, opt-in plaintiffs and class members damages for the amount of unpaid wages, under the FLSA and NYLL;

E. Reimbursing all misappropriated tips and other unlawful deductions;

F. Awarding liquidated damages pursuant to 29 U.S.C. § 216(b) and the

NYLL;

G. Awarding plaintiffs and class members damages under the NYSHRL and NYCHRL;

H. Awarding plaintiffs and class members punitive damages under the NYCHRL;

I. Awarding the named plaintiffs back wages due to constructive discharge and/or unlawful termination and for retaliation under the NYSHRL and NYCHRL;

J. Awarding the named plaintiffs damages, including punitive damages, for pain, suffering, humiliation and emotional distress suffered in relation to the intentional tort claims;

K. Awarding plaintiffs and class members costs associated with the purchase and upkeep of required uniforms;

L. Declaring defendants' conduct complained of herein to be in violation of the plaintiffs' and the class's rights as secured by the NYLL, NYSHRL and NYCHRL;

M. Awarding plaintiffs pre-judgment interest;

N. Awarding plaintiffs the costs of this action together with reasonable attorneys' fees; and,

O. Granting such other injunctive and further relief as this Court deems necessary and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, plaintiffs demand a trial by jury on all questions of fact raised by the Complaint.

Dated: Jericho, New York
July 27, 2010

Respectfully submitted,

By: ______________________

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